IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10193 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ELIYAS HAJI MAMAD KUMBHAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 10193 of 2004

MR NV ANJARIA for Petitioner No. 1

Mr. Sood, AGP for Respondent No. 1,3

MR PRASHANT G DESAI for Respondent No. 2

..... for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 01/09/2004

ORAL JUDGEMENT

Rule. Service of Rule is waived by learned AGP, Mr. Sood, AGP for respondents No. 1 and 3, by learned advocate, Shri PG Desai for respondent No.2, and by learned advocate, Y.S. Mankad for respondent No.4. With

the consent of the parties the matter is taken up for final hearing today.

2. It is not in dispute that the petitioner is affected by the development plan and that as per the said plan the land occupied by the petitioner will be forming part of a road and therefore the petitioner will have to be evicted from the land occupied by him.

3. The learned advocates have submitted that a matter involving similar facts, being Special Civil Application No. 14666 of 2003 has been decided by this Court on 23rd July 2004 wherein an affidavit was filed by the respondent No.2 stating that it would consider cases of bonafide tenants, who were to be affected by the town planning scheme, and respondent No.2 would try to give such tenants alternative accommodation in the vicinity, where they were staying/doing their business. The learned advocates have also relied upon the order passed by this Court [Coram: Mr. A.R. Dave, J.] in Special Civil Application No. 14668 of 2003 and allied matters and requested that the order on similar lines may be passed. Shri P.G. Desai, learned advocate appearing on behalf of respondent No.2 states that the respondent No.2 will consider the case of the petitioner and will try to give them alternative accommodation as far as possible in the same vicinity, and if not possible in another vicinity as per the land disposal policy of respondent No.2, which is generally to charge market price. However, looking to the peculiar facts of the case, if the petitioners make a representation for exemption or reduction in price, their cases will be considered sympathetically.

4. In view of the aforesaid statement, it is directed that respondent No.2 shall take appropriate action as per land allotment policy and the statement made on behalf of respondent No.2.

5. In view of the aforesaid submission made on behalf of respondent No.2, the grievance ventilated in the petition would not survive and therefore the petition is disposed of as allowed. Rule is made absolute to the above extent. Direct service is permitted.

rmr. [M.R. Shah, J.]